



General Assembly

January Session, 2009

Raised Bill No. 1065

LCO No. 4111

04111_____VA_

Referred to Committee on Select Committee on Veterans' Affairs

Introduced by:
(VA)

AN ACT CONCERNING A PRETRIAL DIVERSIONARY PROGRAM FOR VETERANS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (Effective October 1, 2009) (a) There shall be a
2 supervised diversionary program for veterans accused of a crime or
3 crimes or a motor vehicle violation or violations for which a sentence
4 to a term of imprisonment may be imposed, which crimes or violations
5 are not of a serious nature. The program shall be open to any veteran
6 who demonstrates that he or she has service-related traumatic brain
7 injury or post traumatic stress disorder.

8 (b) A veteran shall be ineligible for participation in such supervised
9 diversionary program if such veteran (1) is ineligible to participate in
10 the pretrial program for accelerated rehabilitation under subsection (c)
11 of section 54-56e, or (2) has twice previously participated in such
12 supervised diversionary program.

13 (c) Upon application by any veteran for participation in the
14 program, the court shall, but only as to the public, order the court file
15 sealed provided such veteran states under oath, in open court or before

16 any person designated by the clerk and duly authorized to administer
17 oaths, under penalties of perjury, that such veteran has not had such
18 program invoked in such veteran's behalf more than once. Court
19 personnel shall provide notice, on a form approved by rule of court, to
20 any victim of such crime or motor vehicle violation, by registered or
21 certified mail, that such veteran has applied for the program and that
22 such victim has an opportunity to be heard by the court on the matter.

23 (d) The court shall refer such veteran to the Court Support Services
24 Division for confirmation of eligibility and assessment of the veteran's
25 mental health condition. The prosecuting attorney shall provide the
26 division with a copy of the police report in the case to assist the
27 division in its assessment. The division shall determine if the veteran is
28 amenable to treatment and if appropriate services and treatment are
29 available. If the division determines that the veteran is amenable to
30 treatment and that appropriate services and treatment are available, it
31 shall develop a treatment plan tailored to the veteran and shall present
32 it to the court.

33 (e) Upon confirmation of eligibility and consideration of the
34 treatment plan presented by the Court Support Services Division, the
35 court may grant such application. If the court grants the application,
36 such veteran shall be referred to the division. The division shall
37 collaborate with the Department of Mental Health and Addiction
38 Services and the Department of Veterans' Affairs to place such veteran
39 in a program that provides appropriate community supervision,
40 treatment and services. The veteran shall be subject to the supervision
41 of a probation officer who has a reduced caseload and specialized
42 training in working with veterans who have service-related traumatic
43 brain injury or post traumatic stress disorder.

44 (f) The Court Support Services Division shall establish policy and
45 procedures to require division employees to notify any victim of the
46 veteran admitted to the program of any conditions ordered by the
47 court that directly affect the victim and of such veteran's scheduled

48 court appearances with respect to the case.

49 (g) Any veteran who enters the program shall agree: (1) To the
50 tolling of the statute of limitations with respect to such crime or
51 violation; (2) to a waiver of such veteran's right to a speedy trial; and
52 (3) to any conditions that may be established by the division
53 concerning participation in the supervised diversionary program
54 including conditions concerning participation in meetings or sessions
55 of the program.

56 (h) If the Court Support Services Division informs the court that
57 such veteran is ineligible for the program and the court makes a
58 determination of ineligibility or if the division certifies to the court that
59 such veteran did not successfully complete the assigned program, the
60 court shall order the court file to be unsealed, enter a plea of not guilty
61 for such veteran and immediately place the case on the trial list.

62 (i) If such veteran satisfactorily completes the assigned program,
63 such veteran may apply for dismissal of the charges against such
64 veteran and the court, on reviewing the record of such veteran's
65 participation in such program submitted by the Court Support
66 Services Division and on finding such satisfactory completion, shall
67 dismiss the charges. If such veteran does not apply for dismissal of the
68 charges against such veteran after satisfactorily completing the
69 assigned program, the court, upon receipt of the record of such
70 veteran's participation in such program submitted by the Court
71 Support Services Division, may on its own motion make a finding of
72 such satisfactory completion and dismiss the charges. Except as
73 provided in subsection (j) of this section, upon dismissal, all records of
74 such charges shall be erased pursuant to section 54-142a. An order of
75 the court denying a motion to dismiss the charges against a veteran
76 who has completed such veteran's period of probation or supervision
77 or terminating the participation of a veteran in such program shall be a
78 final judgment for purposes of appeal.

79 (j) The Court Support Services Division shall develop and maintain

80 a database of information concerning veterans admitted to the
 81 supervised diversionary program that shall be available to the state
 82 police and organized local police departments for use by sworn police
 83 officers when responding to incidents involving such veterans. Such
 84 information shall include the veteran's name, date of birth, Social
 85 Security number, the violation or violations with which the veteran
 86 was charged, the dates of program participation and whether a deadly
 87 weapon or dangerous instrument was involved in the violation or
 88 violations for which the program was granted. The division shall enter
 89 such information in the database upon such veteran's entry into the
 90 program, update such information as necessary and retain such
 91 information for a period of five years after the date of such veteran's
 92 entry into the program.

93 (k) The Court Support Services Division, in collaboration with the
 94 Department of Mental Health and Addiction Services and the
 95 Department of Veterans' Affairs, shall develop standards and oversee
 96 appropriate treatment programs to meet the requirements of this
 97 section and may contract with service providers to provide such
 98 programs.

99 (l) The Court Support Services Division shall retain the police report
 100 provided to it by the prosecuting attorney and the record of
 101 supervision including the dates of supervision and shall provide such
 102 information to the court, prosecuting attorney and defense counsel
 103 whenever a court is considering whether to grant an application by
 104 such veteran for participation in the supervised diversionary program
 105 for a second time.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section

Statement of Purpose:

To provide a diversionary program for veterans suffering from service-related traumatic brain injury or post traumatic stress syndrome who are accused of a crime.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]